

South Coast Air Quality Management District
Transportation Programs

Rule 2202 - On-Motor Vehicle Mitigation Options

Confused About Compliance?



Insight to
Compliance
Questions

December 1999

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Compliance Tips

Types of inspections:

Complaint Investigation: Usually we receive complaints from employees at a regulated worksite. The complaint usually is that incentives have been discontinued, changed or deleted without getting approval from the AQMD to do so.

Follow-up inspection: Usually conducted to follow-up on a previous inspection where a notice was issued.

High AVR No-Fault inspection: When a company reaches or exceeds their AVR target and they have a program due (AA or Triennial) they can request a High AVR No-fault inspection. If a company passes the inspection, submittal fees are waived. Call for an appointment.

No-Fault inspection: This is similar to a Random inspection. The only difference is that an appointment is made to meet with the inspector. If the company is in non-compliance, the inspector verbally gives instructions to the ETC of what needs to be done to get the company into compliance; the company is then given one month to correct the deficiency. If after that period, the company is still non-compliance, a Notice to Comply will be issued.

Random inspection: Inspector conducts a random inspection at a regulated worksite. Inspectors do not make appointments for random inspections. If you want an appointment please see No-Fault inspection description.

Staff Request inspection: Inspector receives a written request from staff to verify compliance with the regulation.

Inspection Tips:

- Have the most current program readily available to show the inspector.
- Have documents which demonstrate preparation and implementation of program.
- Implement each strategy as stated in the approved program.
- Do not *discontinue, suspend, delete or change* a strategy or strategies without submitting a program amendment to Transportation Staff and receiving a written "**approval**" to do so.
- Submit your program on or before your next due date.

Recordkeeping Tips:

- To be in compliance with record-keeping requirements you need to **keep your records for 3 years.**
- Keep documentation that shows what you have done to *implement, market and track* your program. You will be asked to show the inspector:
 - How you determined the AVR (AVR surveys and calculation worksheets).
 - How all Marketing Strategies are continuing;
 - That all incentives are implemented;
 - That the approved program and approval letter are on-site (note: we use your stamped "*approved*" copy of the program as the basis for the inspection)

Here are some examples of various types of records:

Marketing Examples:

- **Employee Memos**, payroll stuffers, newsletters, brochures, flyers, new hire orientation materials which are dated to show when they were created/distributed.
- **Agenda or minutes** of employee meetings, kick-off events, vanpool organizational meetings, Zip Code matching parties and other promotional/educational events.
- **Policies and Procedures** which were developed for guaranteed return trip, preferential parking, flex-time, compressed work weeks, telecommuting incentives, etc.
- **Other documents** which show efforts to market/implement incentives.

Tracking Participation Examples:

- **Self-report forms** on which employees indicate their commute modes (calendar type forms).
- **Rosters** or program participants (compiled from self-reporting forms or other sign-up sheets). Also list of employees issued parking permits or assigned carpool parking spaces.

- **Compressed work weeks:** Names of employees and type of compressed schedule they are on. Time cards if they are used to document participation.
- **Telecommuting:** Names of employees participating and number of days each employee participates (weekly, monthly or other basis). Time cards if they are used to document participation.
- **Scantron, magnetic card readers, electronic mail or other methods** which results in documentation of employee participation.

Incentive Implementation Examples:

- **Recognition Program:** Names of employees honored and copies of certificates, memos or flyers (Keep a copy of one or two completed certificates to show inspector)
- **Guaranteed Return Trip:** Names of employees receiving ride home, dates, how provided (taxi, rental car, ETC or fellow employee).
- **Matching:** (Zip code parties, etc.), Lists of which employees received match-lists and information about any successful carpool formations/additions resulting from matching activities.
- **Flex Time:** Lists of employees whose reporting/leaving times were modified to permit rideshare participation.
- **Earned Day Off With Pay:** Lists of hours accumulated by participants and documentation that time off was given to employees.
- **Monetary incentives/Prize awards:** Lists of recipients along with the type of incentive and date received; copies of checks issued to participants, copies of payroll/accounting forms, photos of winners/prizes, receipts for prize purchases, copies of vouchers/gift certificates.
- **Other records:** Records which prove that all other incentives in approved program were implemented.

Notice to Comply Guidelines:

A Rule 2202 Notice to Comply (NC) is served in either of two situations:

1. The inspector finds **non-compliance**, or
2. The inspector needs **additional information**.

For example, a Notice to Comply may be served to:

- Implement one or more strategies,
- Perform required marketing,
- Train an Employee Transportation Coordinator,
- Produce records,
- Submit a late registration or program,
- Submit an amendment to AQMD, etc.

If all the deficiencies listed on the Notice to Comply are corrected by the due date, a notice will not result in any penalties.

NC's are written to provide a specific period for the ETC to complete whatever action is required to come into compliance. It will clearly state what the employer needs to do to correct the deficiencies and the date this is to be accomplished. Try to ensure that you understand what needs to be done. If you are not clear of what needs to be done, ask the inspector for more information before the inspector leaves your facility.

However, if you find you need additional assistance/guidance or more time to correct deficiencies, please call the inspector. The telephone number appears at the bottom of the notice.

Once you have corrected all the deficiencies, telephone the inspector and explain that you have complied with the notice (please leave a voice-mail message if the inspector is not available). Depending on the situation, you may expect either a follow-up visit or a request to provide documentation to verify compliance.

Notice of Violation Guidelines:

A Notice of Violation (NOV) is a ticket served to a company informing the business that it has failed to comply with an SCAQMD rule or permit, or a state air pollution regulation.

If you receive a Notice of Violation from the District, it means you are operating in violation of the law.

When a violation notice is issued, the inspector will give the contact a brochure entitled "What You Need to Know About Notices of Violation". Once the notice is issued, it is forwarded to the District's Chief Prosecutor's Office for handling. Staff from that office will review your case and contact your business regarding the violation either by telephone or by letter.

Prior to settlement with the Chief Prosecutor's Office, a follow-up inspection may be conducted to verify compliance.

Pre-Inspection Checklist for Employee Commute Reduction Programs

The following four (4) basic items will be requested by the inspector during an inspection of a Rule 2202 Employee Commute Reduction Program:

1. _____ Employee Commute Reduction Program. This document must have the AQMD's "Approved" stamp.
2. _____ AQMD Employee Commute Reduction Program approval letter
3. _____ AVR survey forms completed by employees (for current program)
4. _____ Annual Analysis or Triennial Program (most current approved copy)

If your approved Employee Commute Reduction Program contains strategies to maintain/increase participation, you will also need the following items:

1. _____ Lists of participants and the strategies provided to them
2. _____ Copies of the marketing methods used to promote the program
3. _____ Copy of Match-list or a Zip Code list used for carpool matching

If your program contains site amenities such as rideshare bulletin board(s), preferential parking, bike racks or lockers, ATM machine, the inspector will confirm that these are in place

1. _____ Verification that amenities listed in approved program are being implemented.

Notice to Comply & Notice of Violation Situations and Actions

Situations for Employee Commute Reduction Program (ECRP)

SITUATION <i>(NC = Notice to Comply / NOV = Notice of Violation)</i>	ACTION TAKEN	TIME GRANTED	FAILURE TO IMPLEMENT NC
Failure to have certified ETC	NC	30 days	NOV
Failure to submit Triennial/Annual Analysis by due date (No prior history of late-submittals)	NC	30 days	NOV
Failure to submit Triennial/Annual Analysis by due date (Prior history of late submittals)	NOV		
Failure to implement strategies (no prior history of non-implementation)	NC	30 days	NOV
Failure to implement strategies (willful intent or prior history of non-compliance)	NOV		
Failure to re-submit program (Triennial/Annual Analysis) due to Disapproval from District	NOV		
Changing strategies or substituting strategies (must be comparable strategies) without submitting a program amendment to the AQMD Transportation staff & receiving approval from AQMD	NC	30 days	NOV
Suspension or deletion of a strategy or strategies without submitting a program amendment to the AQMD Transportation staff & receiving approval from AQMD	NOV		
Failure to provide documentation to verify compliance (AVR Surveys, payroll records, etc.)	NC	14 to 30 days	NOV
Falsification of records (AVR Surveys, etc.)	NOV		
Change of ownership (NC issued to have Company notify AQMD of change of ownership)	NC	14 to 30 days	

Situations for Emission Reduction Programs (ERP)

SITUATION (NC = Notice to Comply / NOV = Notice of Violation)	ACTION TAKEN	TIME GRANTED	FAILURE TO IMPLEMENT NC
Failure to submit Rule 2202 Registration by due date	NC	30 days	NOV
Failure to implement core elements (non 1.1 default)	NC	30 days	NOV
Failure to re-submit Rule 2202 Registration after a Disapproval from District	NOV		
Failure to submit Emission Credits within the 6 month period	NC	30 days	NOV
Failure to provide records to verify compliance (AVR Survey data used for emission calculations, etc.)	NC	30 days	NOV
Falsification of records	NOV		
Change of ownership (NC issued to have Company notify AQMD of change of ownership)	NC	14 to 30 days	NOV

Situations for Air Quality Investment Program (AQIP)

SITUATION (NC = Notice to Comply / NOV = Notice of Violation)	ACTION TAKEN	TIME GRANTED	FAILURE TO IMPLEMENT NC
Failure to submit Rule 2202 Registration	NC	30 days	NOV
Failure to re-submit Rule 2202 Registration after Disapproval from District	NOV		
Failure to provide records to verify compliance (AVR Surveys or other documentation used to determine employee count in window period)	NC	30 days	NOV
Falsification of records	NOV		
Change of ownership (NC issued to have Company notify AQMD of change of ownership)	NC	14 to 30 days	NOV

NOTE:

- If a company needs more time than listed on the NC (Notice to Comply), then the Inspector that issued the NC should be contacted.
- In the case with overdue programs, compliance with the due date on the Notice to Comply does not negate late fee penalties.

Frequently asked questions

1. **Don't you make appointments to conduct an audit?**

The only appointments made are for a No-fault inspection or a High AVR No-fault inspection.

2. **How long do I have to keep my records for? (Survey forms, etc.)**

There is a 3-year retention period from latest program approval date.

3. **What is a Notice to Comply?**

Basically, it is a "fix-it" slip documenting what needs to be done by the company to be in compliance.

4. **Is there a monetary penalty associated with a Notice to Comply?**

There is no monetary penalty.

5. **If I receive a Notice to Comply to submit a late program, do I get a new due date?**

You do not get a new due date. Your program is late. The Notice to Comply is a warning ticket issued by the compliance staff giving you additional time to get the program in before other action might be taken. The due date on the notice is a tracking mechanism for the compliance staff.

6. **Who can extend a due date on a Notice to Comply?**

The inspector that issued the notice can extend the due date or the Compliance Supervisor can extend the due date.

7. **If the program is overdue, are there any penalties?**

When you submit your overdue program, you will need to add 50% to the filing fee.

8. **Do I still need a radio for Reg. VII or Rule 2202 requirements?**

No, the District no longer broadcasts smog alerts over the radio airwaves. You can call the District's toll free number (1-800-288-7664) to get the latest smog alert or you can log onto the District's Web site.

9. **Do I still need to notify employees when a Stage I smog alert occurs?**

No, not on a Stage I alert. You are now required to alert your employees when a Stage II smog alert occurs and you are also required to keep a log for a Stage II.